

REMARKS

Claims 1, 3-17, 19, 39-45 and 47-57 are now pending in the application. Claims 55-57 are added by this amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

INTERVIEW SUMMARY

Applicants thank the Examiner for the interview granted with Michael Taylor on August 18, 2010. During the interview the included amendments were discussed with the Examiner, it was agreed that they would be entered after the final office action and would overcome the current rejections.

Further, Michael Taylor believes that an agreement was reached that an update search would be performed, and if the claims were not found to be in condition for allowance after these amendments, then Michael Taylor would be contacted to further discuss the newly found art, if any new found art was found, prior to mailing any further office actions.

REJECTION UNDER 35 U.S.C. § 112

Claim 44 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

Applicants have deleted "at least one". Independent Claim 39 recites "a trackable marker", therefore "the trackable marker" recited in Claim 44 includes proper antecedent

basis.

SPECIFICATION

During the interview, the objection to the specification was discussed. Michael Taylor noted that a preliminary amendment filed with the application, on March 16, 2009 and listed on the utility patent application transmittal, included the cross reference and incorporated by reference language. The Examiner indicated agreement and that the objection to the specification would be removed.

REJECTIONS UNDER § 102(B) AND 103(A)

Claims 39, 44-45 and 56 stand rejected under 35 U.S.C. 102 (b) as being anticipated by Smith et al. (CA 2,201,877). Claims 1, 3-8, 10-13, 15-17, 40-43, 47-50 and 52-55 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (CA 2,201,877). Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (CA 2,201,877) in view of Bramlet et al. (US 5,649,946). Claims 19 and 57 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (CA 2,201,877) in view of Jacobson (US 5,665,095).

Independent Claims 1, 39, and 48 are all rejected either alone or in combination with Smith et al. Each of the independent claims has been amended to recite "a plurality of attachment points that are spaced apart and fixed relative to each other." As discussed with the Examiners, Applicants respectfully submit that the cited art, including Smith et al., does not anticipate or fairly render obvious the claimed plurality of attachment points. Accordingly, as discussed and agreed with the Examiners, all of the independent claims

and the claims that depend either directly or indirectly therefore, should be in condition for allowance in light of Smith et al. The other cited art does not overcome the failings of Smith et al.

Although Applicants respectfully submit that all of the claims are in condition for allowance in light of the amendment included herein, Applicants briefly note that Smith et al. is directed to a localization frame for a surgical navigation system. In particular, as illustrated in Figs. 13A-13G, a guide frame 300 can be provided to connect to a different instrument. The guide frame 300 however, includes a semi-circular channel 332 into which portions can be connected, such as a biopsy guide 326 or a drill guide tube 364. Screws 330 can hold a clamp 328 in place or a shaft 356 can be fit in a semi-circular channel to connect the guide frame 300 to the instrument. Smith et al., however, does not anticipate or fairly render obvious, either alone or in combination with the other cited art, a plurality of attachment points that are spaced apart and fixed relative to each other, as recited in the presently pending claims.

The other cited art has been previously discussed, but does not overcome any of the failings of Smith et al. in regard to the pending claims.

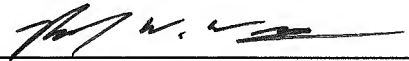
Finally, Applicants respectfully submit that the amendments to the claims are only clarifying amendments, and should not necessitate any new search or further consideration, as discussed with the Examiners during the interview. Accordingly, all of the currently presented amendments should be entered and place the claims in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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